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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/534,333

01/09/2006

Christopher Donald Sorensen

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EXAMINER

FLETCHER, JERRY-DARYL

ART UNIT

PAPER NUMBER

3715

NOTIFICATION DATE

DELIVERY MODE

10/17/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

usptopatentmail@cantorcolburn.com

Office Action Summary	Application No. 10/534,333	Applicant(s) SORENSEN, CHRISTOPHER DONALD	
	Examiner JERRY-DARYL FLETCHER	Art Unit 3715	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 February 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 and 22-36 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 and 22-36 is/are rejected.
- 7) ☒ Claim(s) 30-33 & 36 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 May 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>05/09/2005 & 02/14/2008</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claims 30-33 and 36 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. The additional limitations of the claims only identify the intended use or implementation of the previous claims. Such limitations fail to further define or limit the previously claimed structure. As such the claims fail to further limit the claims from which they depend.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 12, 19 and 30-33 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In reference to Claims 12 and 19

Claim 12 recites the limitation "configuration means" in line 2 of the claim. There is insufficient antecedent basis for this limitation in the claim.

Claim 19 recites the limitation "sensor tray" in line 2. There is insufficient antecedent basis for this limitation in the claim.

In reference to Claims 30-33

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Claims 30-33 are directed to a products and methods of using the products. A single claim which claims both an apparatus and the method of using an apparatus is indefinite since it is ambiguous whether the applicant is claiming the product or the method of using the product.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1, 13, 16 and 28-36 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent No: US 6,774,885 to Even-Zohar (EVEN-ZOHAR).

In reference to Claims 1-13, 16 & 28-36

EVEN-ZOHAR teaches a user interface comprising:

motion detection means (Figure 1, elements 20 & 30);

output means (Figure 6, elements 250 & 260); and

adaptation means adapted for receipt of motion detection signals obtained by said motion detection means establishing an interpretation frame on the basis of said motion detection signals and establishing and outputting communication signals to said output means on the basis of said motion detection signals and said interpretation frame (col. 12, ll. 17-25) [claim 35];

wherein said user interface further comprises signal processing means or communicates with motion detection means determining obtained signal differences by comparison with the signals obtained when establishing said interpretation frame (col. 12, ll. 48-52) [claim 2];

wherein said user interface is distributed (Figure 9) [claim 3];

wherein said motion detection means comprises a set of motion detection sensors (col. 10, ll. 63-66) [claim 4];

wherein said set of motion detector sensors is exchangeable (col. 11, ll. 25-30) [claim 5];

wherein said set of motion detection sensors forms a motion detection means combining at least two motion detection sensors wherein an individual motion detection sensor may be exchanged by another motion detection sensor (col. 13, ll. 53-57) [claims 6 & 34];

wherein said set of motion detection sensors comprises at least two different types of motion detection sensors (col. 10, ll. 63-66) [claim 7];

wherein said motion detection means may be optimized by a user to an intended purpose by exchanging or adding of motion detection sensors said motion detection sensors including at least two different types of motion detection sensors (col. 11, ll. 25-30) [claim 8];

wherein said at least two different types of motion detection sensors are mutually distinguishable (col. 10, ll. 63-66 & Figure 1) [claim 9]

wherein said motion detection sensors comprise at least parts of said adaptation means (col. 11, ll. 31-37) [claim 10];

further comprising configuration means for configuring said adaptation means (col. 11, ll. 60-67 to col. 12, ll. 1-4) [claim 11];

wherein said configuration means outputs information to a user through said output means (col. 12, ll. 52-55) [claim 12];

wherein said configuration means represents different parameters of the adaptation means by a human figure presented to a user by said output means (col. 12, ll. 52-55) [claim 13];

wherein said user interface further comprises remote control means (col. 5, ll. 18-21) [claim 16];

wherein said output means comprises and output interface (col. 15, ll. 16-24) [claim 28];

wherein said output means comprises a computer (col. 14, ll. 43-45) [claim 29];

wherein said user interface is used for rehabilitation (col. 5, ll. 28-30) [claim 30];

wherein said user interface is used for controlling electrical appliances and machines (col. 5, ll. 18-21) [claims 31-32];

wherein said user interface is used for communication (col. 12, ll. 48-52) [claim 33].

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over EZ.

In reference to Claims 14-15

EVEN-ZOHAR teaches the limitations of claim 11 (see rejection of claim 11 above), and further teaches that a subject position is chosen, a body area to be used is chosen, a desired movement is indicated and replayed for a subject, a desired output is indicated, a part of the body to be fixed or monitored for error is chosen, and a strictness of control is set (col. 12, ll. 33-38) [claim 15].

It is noted by the examiner that in choosing to perform a Mark McGuire swing, the part of the body to be used and monitored is selected when the sensors used for data capture are placed at said parts. Furthermore, by forcing the user to swing the bat like Mark McGuire, a zero tolerance is set for error, and a strictness of control is set.

EZ, however, fails to specifically teach wherein said configuration means comprises a configuration wizard that automatically or semi-automatically leads a user through a configuration sequence.

The examiner takes **OFFICIAL NOTICE** that it is old and well known in the art of computing, to use “wizards” for installing and customizing computer software. A wizard is defined by the examiner to be a utility within an application that helps a user perform a particular task by leading the user through a sequence of dialogs.

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It would have been obvious to one of ordinary skill in the art, at the time of the invention, to have used a configuration wizard in order to have allowed a user to easily customize the program for an intended use [claim 14].

8. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over EVEN-ZOHAR in view of US Patent No: US 5,465,094 to McEwan (McEwan).

In reference to Claim 17

EZ teaches the limitations of claim 4 (see rejection of claim 4 above), but fails to specifically teach that the motion detection sensors are driven by rechargeable batteries.

McEwan teaches that a motion detection sensor is driven by a rechargeable battery (col. 1, ll. 62-67).

It would have been obvious to one of ordinary skill in the art, at the time of the invention, to have combined the teachings of EVEN-ZOHAR and McEwan, to have used rechargeable batteries to power the sensors of EVEN-ZOHAR, as taught by McEwan. This would have provided the sensors of EVEN-ZOHAR with a rechargeable power source that would be cost-efficient and further obviate the necessity for constantly buying new batteries.

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9. Claims 18 -19 are rejected under 35 U.S.C. 103(a) as being unpatentable over EVEN-ZOHAR in view of US Patent No: US 4,837,590 to Sprague (Sprague).

In reference to Claims 18-19

EVEN-ZOHAR teaches the limitations of claim 4 (see rejection of claim 4 above), but fails to specifically teach that the motion detection means comprises a sensor tray with means for recharging said motion detection sensors, for holding said motion detection sensors.

Sprague teaches the use of a tray for storing and recharging an electrical device (col. 4, ll. 15-22).

It would have been obvious to one of ordinary skill in the art, at the time of the invention, to have combined the teachings of EVEN-ZOHAR and Sprague, to have supplemented the invention of EVEN-ZOHAR with a storage and recharging tray, as taught by Sprague, in order to have easily transported and recharged the sensors when they were not in use.

10. Claims 20 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over EVEN-ZOHAR in view of US Patent No: US 6,690,292 to Meadows et al. (Meadows).

In reference to Claims 20 & 23

EVEN-ZOHAR teaches the limitations of claim 1 (see rejection of claim 1 above) but fails to specifically teach that said motion detection signals and/or communication

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signals are transmitted by wireless communication by using wireless network technology.

Meadows teaches the use of wireless communication and technology for transmitting data from a motion detection sensor (col. 1, ll. 58-60).

It would have been obvious to one of ordinary skill in the art, at the time of the invention, to have combined the teachings of EVEN-ZOHAR and Meadows, to have supplemented the invention of EVEN-ZOHAR by allowing wireless transmission of data from sensors, as taught by Meadows, to allow for remote system access.

11. Claims 22, 24 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over EVEN-ZOHAR and Meadows as applied to claims 20 and 23 above, and further in view of US Patent Application Publication No: US 2002/0038459 to Talmola et al. (Talmola).

In reference to Claims 22, 24 & 25

EVEN-ZOHAR and Meadows teach the limitations of claim 20 (see rejection of claim 20 above), but fail to specifically teach that Bluetooth, wireless broadband and UMTS technologies are exploited by the wireless communications.

Talmola teaches the exploitation of Bluetooth technology (par. 0003) [claim 22], wireless broadband technology (par. 0012) [claim 24], and UMTS technology (par. 0029) [claim 25].

It would have been obvious to one of ordinary skill in the art, at the time of the invention, to have supplemented the modified invention of EVEN-ZOHAR and Meadows

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with the teachings of Talmola, in order to take advantage of the benefits afforded by the Bluetooth, wireless broadband and UMTS technologies, since these are well known advances in the art of wireless technology.

12. Claims 26 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over EVEN-ZOHAR in view of US Patent No: US 5,716,302 to Andersson (Andersson).

In reference to Claims 26 & 27

EVEN-ZOHAR teaches the limitations of claim 1 (see rejection of claim 1 above), but fails to specifically teach that the user interface further comprises a sensor stand that is recognizable as the shape of a human body.

Andersson teaches the use of a human figure as a sensor stand (col. 1, ll. 38-51 & Figure 1).

It would have been obvious to one of ordinary skill in the art, at the time of the invention, to have combined the teachings of EVEN-ZOHAR with those of Andersson, to have provided a human-shaped dummy for receiving the sensors. This would have been useful for storing the sensors, as well as for use in athletic training, such that the speed at which a blow is delivered can be monitored.

Conclusion

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JERRY-DARYL FLETCHER whose telephone number is

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(571)270-5054. The examiner can normally be reached on Monday to Friday 9:00 a.m. to 5:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan M. Thai can be reached on (571) 272-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kathleen Mosser/
Primary Examiner, Art Unit 3715

/J.D.F./
Examiner, Art Unit 3715

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